IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4167 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

BHIKHABHAI MANGABHAI VASAVA

Appearance:

1. Special Civil Application No. 4167 of 1992

MR HARDIK C RAWAL for Petitioner No. 1

..... for Respondent No. 1

CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 16/04/2002

ORAL JUDGEMENT

Heard learned advocate Mr. H.C. Raval for the petitioner. This petition was admitted by this court by order dated 22.6.1992 and ad.interim relief was granted.

By way of this petition, the petitioner has challenged the award made by the labour court, Jamnagar in reference No. 939 of 1990 (old No. 291 of 1988) dated 23rd March, 1992 wherein the labour court has granted reinstatement without back wages and without continuity of service in favour of the respondent workman. Learned advocate Mr. Raval has submited that the respondent has suppressed the material from the corporation that at an earlier point of time, he was working as conductor in Bhavnagar in Barwala Depot and he was dismissed from service for committing misconduct of misappropriation and the said dismissal was challenged by the respondent before the labour court and during the pendency of the reference before the labour court, he filled form of conductor in Rajkot Division and obtained order of appointment for the post of conductor. In the Form of conductor which was filled in by the respondent, there was particular column of other information wherein the petitioner has given answer in the negative instead of giving information of his past service in the corporation at Barwala Depot of Bhavnagar District. He has submitted that in view of the complaint made by the concerned person, matter was inquired by the corporation and ultimately, it was found that the respondent has suppressed the material fact while submitting form and obtaining appointment as conductor in the Rajkot Division and therefore, he was dismissed from service which was quite legal and valid and, therefore, the labour court ought not to have interfered with the same in exercise of the powers under section 11-A of the Industrial Disputes Act, 1947.

I have considered the submissions made by Mr. Raval. I have also perused the award in question made by the labour court. In para 11 of the award in question, the labour court has considered the evidence on record and has given cogent reasons in support of its conclusions for interfering with the order of punishment. In para 11 of the award in question, the labour court has observed that ordinarily, it would not have liked to interfere with the order of dismissal in the facts and circumstances of the case. However, the labour court considered one office order of the corporation which was before it at Exh. 25 passed by Shri Lakhtaria, the Chief Divisional Transport Officer, ST Junagadh in the default case No. 346 which was a case of some Damankumar Venishankar, conductor who was dismissed by the corporation and two consecutive departmental appeals of said Shri Damankumar Venishankar were also failed but he managed to get the job as a driver in the corporation and while doing so, he did not fill in the particular about

his previous career in the application form and the competent authority, on finding Shri Damankumar guilty of the charges, ordered that he should be placed on the minimum basic pay for the cadre of driver for a period of two years. This order was considered by the labour court and the labour court was of the view that if the departmental authority can take the lenient view of the matter like the case before hand, then, why the labour court upon which the duty is cast to enter into the propriety of the punishment should not interfere with the order of dismissal. Therefore, considering the nature of the misconduct and its seriousness, the labour court made the award in question which is under challenge in this petition.

Therefore, upon perusal of the award in question and para 11 and 12 thereof in particular, according to my opinion, the labour court has not committed any error or irregularity in exercising the powers under section 11A of the Act. Even Mr. Raval has not been able to point out any infirmity or jurisdictional error and/or procedural irregularity committed by the labour court while passing the award in question. Therefore, there is no substance in this petition and the same is, therefore, dismissed. Rule is discharged. Ad.interim relief granted earlier shall stand vacated with no order as to costs.

16.4.2002. (H.K. Rathod,J.)

Vyas